

REMARKS

Upon entry of the present amendments, Claims 1-16, 20-23, 25-44, 48-50, 52-59, 63-64 and 66-85 are currently pending in the captioned application. Reconsideration is respectfully requested for the rejections set forth in the Office Action in view of at least the present amendments, attached inventor declarations (see Appendix A), an attached assignee declaration (see Appendix B), and the following remarks.

Rejections in view of Schick

In the Office Action, Claims 1-5, 7-16, 20, 22, 25-34, 36-44, 48-49, 52-59, 63-64, 66-67 and 69-77 stand rejected under 35 U.S.C. §102(e) in view of a published patent application to Schick et al. (U.S. Pub. No. 2002/0065698). In view of the inventor and assignee declarations submitted herewith (see attached), applicant submits that Schick cannot properly be asserted as prior art against the pending claims of the application.

The submitted declarations provide evidence to demonstrate actual reduction to practice of the claimed invention at least as early as prior to May 1, 2000, which is the earliest possible priority date which can be claimed by Schick. Accordingly, Schick cannot be applied under 35 U.S.C. §102(e) to reject the pending claims.

For example, employing Claim 2 as an illustrative claim, the attached declarations demonstrate actual reduction to practice of the claimed invention at least as early as May 1, 2000. In Claim 2, the element of “wirelessly receiving data, by a computer system and from a vehicle, the data comprising numerical diagnostic or location-based data associated with the

“vehicle” is addressed in at least paragraphs 4-9 of the inventor declarations and paragraphs 3-8 of the assignee declaration. The Claim 2 elements of “processing the data with the computer system to generate diagnostic or location information that is at least in part derived from the received data, wherein the generated information comprises at least one of vehicle status reports and vehicle service recommendations, and wherein the derived information has a meaning distinct from the received data” and “displaying the derived diagnostic or location information on at least one website, the website having a web interface for presenting information associated with the vehicle” are supported by at least paragraph 7 of the inventor declarations and paragraph 6 of the assignee declaration. Also, the Claim 2 element of “transmitting an electronic communication including information associated with the derived diagnostic or location information” is supported by at least paragraphs 6-9 of the inventor declarations and paragraphs 5-8 of the assignee declaration. Furthermore, the Claim 2 element of “wherein the vehicle is selected from a group consisting of an automobile, truck, wheeled commercial equipment, heavy truck, power sport vehicle, collision repair vehicle, marine vehicle, and recreational vehicle” is addressed by at least paragraphs 4-6 of the inventor declarations and paragraphs 3-5 of the assignee declaration.

Also, in the Office Action, Claims 1-5, 7-16, 20, 22, 25-34, 36-44, 48-49, 52-59, 63-64, 66-67 and 69-77 stand rejected under 35 U.S.C. §103 in view of Schick. In view of the inventor and assignee declarations submitted herewith, and in view of the discussion above with respect to rejection of these claims under 35 U.S.C. §102(e), applicants submit that Schick likewise cannot properly be asserted as prior art against the pending claims of the application under §103.

Furthermore, independent Claims 1, 2, 25, 29-31, 52, and 63 are allowable over Schick for reasons analogous to those of Claim 2. Dependent Claims 3-16, 20-23, 26-28, 32-44, 48-50, 53-59, 64, and 66-85 are allowable at least by virtue of their dependency on allowable independent claims.

Miscellaneous

Applicants note that MPEP §715.04 permits the following parties to make an affidavit or declaration, among others: “(A) All the inventors of the subject matter claimed” and “The assignee or other party in interest when it is not possible to produce the affidavit or declaration of the inventor. *Ex parte Foster*, 1903 C.D. 213, 105 O.G. 261 (Comm'r Pat. 1903).” An executed declaration has not been submitted for joint inventor Chuck Myers. However, applicants submit that even though it is not possible to produce a declaration for Mr. Myers as an inventor, the weight of the attached inventor and assignee declaration evidence provided is more than sufficient to demonstrate actual reduction to practice of the claimed invention at least as early as prior to May 1, 2000, and this evidence is in compliance with MPEP §715.04 and *Ex parte Foster*.

Applicants submit that the dependent claims pending herein are allowable at least by virtue of their dependency on independent claims which, as applicants describe above, are patentable over the cited references. Applicants reserve the right, however, to make supplemental arguments as may be necessary, because the dependent claims of the present application include additional features that further distinguish the claims from the cited

references. A detailed discussion of these distinctions is believed to be unnecessary at this time in view of the fundamental distinctions already set forth in the above remarks.

SUMMARY

Based on the present amendments, the submitted declaration evidence, and the foregoing remarks, applicants respectfully request reconsideration and allowance of all pending claims of the present application. Any questions or issues regarding this response are invited to the attention of the undersigned representative by telephone or e-mail, so that such questions or issues can be addressed expeditiously.

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Respectfully submitted,



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Appendix A